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THE LEGAL WAYS OF PRIVATISATION IN LATVIA

This is a brief survey about the main principles of privatisation what is provided in Latvia.

Land reform and registration of real estates in Latvia is proceeding according to special laws, which provide rules and orders of privatisation . Privatisation in Latvia is public and open, decisions about privatisation are taken by commissions which involve representatives from the self-governments (public) and responsible state institutions (experts).

The legislation of Latvia distinguishes different ownership subjects - citizens, the resident population, state, self-government, legal persons, foreign embassies. Foreign citizens and legal persons (with foreign capital till 50 %) can obtain land ownership only after transactions, however there are some exceptions.

The privatisation process is divided into land privatisation, denationalisation of buildings, privatisation of flats, privatisation of enterprises.

1. Land Privatisation

Land privatisation is proceeding in conformity with the law "On Land Reform in Rural Territories of the Republic of Latvia ", "On Land Privatisation in Rural Territories", "On Completion of Land Reform in Rural Territories", "On Land Reform in the Cities of the Republic of Latvia ", "On Completion of Land Reform in the Cities". As it is seen the land privatisation in rural territories is under separate laws than in towns, but the main principles are the same and is possible to privatise all kinds of lands - agriculture, forests, built up lands and so on. In the each municipality there is a Land Commission (under law "On Land Commissions") which looks through all applications and make all decisions about land privatisation. In order to speed up the process of privatisation, the Land Commissions in rural territories were abolished in 1998 and the State Land Service of Latvia is responsible for the completion of land privatisation. Till today is privatised 38,4% from total area of rural territories and 29,2% from total area of cities.

There are different ways in which land can be privatised and the main principles are described below:

- ◆ Restitution of ownership to persons who owned land before 1940 or to his or her heirs if the former owner has died. Rules of inheritance are provided by Civil Code. Also some legal persons like the Religious organisations (under the law "On Returning of Properties to Religious Organisations"), the Red Cross and others have rights to get their ownership restituted, but the main rule is that it is necessary to prove rights of inheritance in the court. It is possible to restitute ownership to the same plot or if it is built up by others (for private living houses, other buildings for private and public needs) the former owner can have ownership restituted on another equivalent plot of land as well as has rights to claim for compensation if the former owner or his heirs do not want to take a plot of land. The compensation is paid in privatisation certificates and in some cases in cash. The procedure

is slightly different in the cities, where the owner can have ownership restituted to the plot of land what is build up also for public needs and living house of non-citizens.

- ◆ Privatisation of land buying it from the state. In the rural territories land reform proceeds in two stages - at first, getting land in use and then privatising it, but in the cities land is privatised at once. Natural and legal persons have rights to privatise land. Payment for the land is done in certificates or cash. It depends on person's wish, but in almost all cases payment is done in certificates.
- ◆ Partial restitution of ownership and privatisation for payment. This happens in cases when the former owner or his heirs have received bigger plot than was possessed till 1940 or when several persons inherit the same real estate, but only one of them privatises the land. This person must pay compensation (in certificates) to the others.

2. Denationalisation of Buildings

Denationalisation of buildings proceeds in conformity with the law "On Denationalisation of Real Estates" and "On Restoring of Real Estates to Legitimate Owners". It is because some properties in the Soviet times were nationalised and some were expropriated. This is the main reason why land privatisation is proceeding separately from the restitution of ownership to the buildings. The municipality is responsible for the denationalisation process. The above mentioned laws prescribe that the former owner or his heirs have rights to get back buildings what he or she owned before year 1940 or has rights to receive compensation if the real estate is not saved. The compensation is paid in privatisation certificates, but the former owner, who has been repressed under the Soviet regime, has rights to receive compensation in cash. The law provides for some exceptions when ownership rights are not restituted, for instance, if the extent of rebuilding exceeds 65% of the former building and the building is used for public needs.

3. Privatisation of Apartments

The state and self-governments' Commissions of Privatisation of Apartments are responsible for the provision of this process. The following laws govern the privatisation process: Law "On Privatisation of State and Municipalities' Living Houses", "On Apartment Property" and "On Privatisation of Condominiums". These laws provide that the tenant has rights to privatise the flat, in scattered instances several persons who live in the flat and also a third person if the acceptance is obtained from the tenant, for instance, old person who is tenant of one of the municipality's apartment after having concluded an agreement to privatise the flat may convey rights to privatise the flat to his or her relative.

Flat can be privatised in two ways: by the use of accelerated privatisation or complete privatisation.

- ◆ The accelerated privatisation means that the tenant wants to privatise the flat fast. The commission makes a decision on privatisation, the tenant buys the flat for the price of two privatisation certificates per sq. and registers it with the Cadastral Register. After registration the tenant gets ownership rights to the apartment and has also transaction rights.

- ◆ The complete privatisation means that before privatisation the municipality or state registers the living house in the Land book, and then sells the apartment to tenant. The tenant gets ownership not only to flat, but also to a part of all communications and land under the house. In such way are privatised more than 91000 flats now.

The privatisation procedure of apartments of former collective and state farms in the rural territories is different from the above described procedure. In this case all apartments are privatised for equities (not for certificates) what farmers had got from privatising of collective and state farms.

In Latvia we have around 509410 apartments and privatised are around 65% till today. The objective of policy of apartment privatisation to privatise 100% of all living fund.

4. Privatisation of Enterprises

The state institutions are responsible for the privatisation process of enterprises, particularly, the Ministry of Economy and Agency of Privatisation. The following laws regulate the privatisation process of enterprises: Law "On Restitution of Ownership Rights to Enterprises and Other Real Estate Objects", "On Privatisation of State and Self-government Real Estates", "On the Order of Alienation of Real Estates Belonging to the State and Self-governments".

The enterprises are privatised by drafting the strategic investor, to whom the majority of shares are sold. The rest of shares are sold in public bidding where everybody can buy stocks of enterprise for certificates and to become part-owner of the enterprise.

5. The Order of Privatisation of Land of State and Municipalities Upon the Completion of Land Reform

It will be possible to acquire ownership of land what has not been privatised during the land reform by buying it for the certificates of compensation in the bidding (in this way persons who have got compensation certificates for real estate can buy another property from the state) or for money according to the "Rules On the Organisation of Bidding for Real Properties of State and Self-governments".

The plots what are in person's use and will not be privatised (till 2001) will stay as the property of state. These persons will be able to lease the land from the state.

6. Necessity to Register Real Estates in the Cadastral Register and Land Book

According to the existing laws all properties should be registered in Cadastral Register, but it is not mandatory to register them in the Land Book (juridical register). The legislation provides that the person obtains ownership rights to land plot upon the decision on privatisation or restitution of ownership has been passed, but the person has not rights to perform transactions if the property is not registered in the Land book.

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